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a plurality of openings defined on a portion of the cover which communicate with the enclosed microenvironment; wherein each opening includes a closing assembly having a self-acting closure to preserve the neutral thermal environment.

### REMARKS

Claims 1-17 and 24-25 are pending in the application. Claims 1-17 were previously examined as amended in a response dated January 28, 2000. This response is supplemental to the response dated January 28, 2000. Claims 1, 10, and 17 have been amended as follows. Claims 21-23 have been canceled. Applicants respectfully request reexamination and reconsideration of the pending claims.

#### Rejections under 35 U.S.C. § 102 and § 103

Claims 1-7, 9-14, 16, 17, and 21-23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hogan (U.S. Patent No. 4,885,000). Claims 8 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hogan. Applicants overcome the rejections as follows.

As Amended, Claim 1 sets forth a substantially flexible cover, which provides a thermal barrier when used in conjunction with a specialized heating apparatus. The heating apparatus generally has a bed portion with side guards extending away from the bed portion. The outwardly extending side guards are typically used with infant beds to impede the infant from rolling or inadvertently falling from the bed. In the present invention, the flexible cover defines an enclosure when placed over the bed portion and the outwardly extending side guards, which can accommodate the neonatal infant. In contrast, Hogan teaches a tent 20, which can be draped over the edges of a table 22 (Hogan, Col. 4, lines 54-55). As illustrated in FIG. 3 of Hogan, the table has an edge with a lip, however, Applicants could find no teaching nor suggestion of (the table having outwardly extending side guards) <sup>not a claim limit</sup> Moreover, since table 22 of Hogan is to be used to support a corpse, there is no reason to expect that Hogan intended to disclose a guard to impede the corpse from rolling or falling from the table nor would Hogan have expected for the table to be used with such side guards. Accordingly,

since Hogan does not teach or suggest a flexible cover which defines an enclosure when placed over a bed portion and outwardly extending side guards, Claim 1 is allowable.

Referring now to Claim 10, set forth is a system for providing a neutral thermal environment. As amended, the system includes an infant radiant warmer and a substantially flexible cover which defines an enclosed space when disposed over the radiant warmer. Support for this claim can be found throughout Applicants' specification for example, page 6, lines 20-21 and FIG. 1. Applicants could find no teaching or suggestion in Hogan for such a system. Hogan discloses a tent used in the performance of autopsies. Applicants could find no suggestion to combine the tent of Hogan with a radiant warmer, which is used in the treatment of living infants. Accordingly, Claim 10 is allowable.

Regarding Claim 17, set forth is a substantially flexible cover, which includes an edge portion. As shown in Applicants' FIG. 5, the entire edge portion of the cover contacts the mattress to create an enclosed space. The enclosed space provides a neutral thermal microenvironment, within the incubation chamber. Hogan neither teaches nor suggests using a barrier that creates a neutral thermal environment within an incubation chamber. Accordingly, Claim 17 is allowable.

Claims 2-9 depend from Claim 1 and are allowable for at least the same reasons as Claim 1 as well as for the novel features which they add.

Claims 11-16 depend from Claim 10 and are allowable for at least the same reasons as Claim 10 as well as for the novel features which they add.

#### New Claims

New Claims 24-26 have been added to further clarify the claimed invention. No new matter has been added thereby. Applicants submit that Claims 24-26 are fully supported throughout Applicants' specification. Accordingly Claims 24-26 are in condition for allowance.

#### CONCLUSION

For the foregoing reasons, Applicants believe pending Claims 1-17 and 24-26 are allowable and a notice of allowance is respectfully requested. If the Examiner has any

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questions regarding the application, the Examine is invited to call the undersigned Attorney at (949) 718-6780.

I hereby certify that this correspondence is being transmitted via facsimile to: ASSISTANT COMMISSIONER FOR PATENTS, Washington, D.C. 20231, at (703) 305-3580.

on April 5, 2000.

Theodore P. Lopez  
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4-5-00  
Date of Signature

Respectfully submitted,

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